



**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Part 200**

**[Docket No. FR-5458-F-02]  
RIN 2502-AI96**

**Federal Housing Administration (FHA) Appraiser Roster: Appraiser Qualifications for Placement on the FHA Appraiser Roster**

**AGENCY:** Office of the Assistant Secretary of Housing – Federal Housing Commissioner, HUD.

**ACTION:** Final rule.

**SUMMARY:** On July 14, 2011, HUD published a proposed rule to update HUD's regulations to conform to the statutory requirement that appraisers must be certified, rather than licensed, by a state appraisal licensing board in order to appear on the FHA Appraiser Roster. This requirement was established by the Housing and Economic Recovery Act of 2008. Although current HUD practice is in compliance with the statutory mandate, the regulations reflect outdated prior policy of permitting state-licensed appraisers to be listed on the FHA Appraiser Roster. In addition, HUD proposed updating the FHA Appraiser Roster regulations by replacing the obsolete references to the Credit Alert Interactive Voice Response System (CAIVRS) with references to its successor, the online-based Credit Alert Verification Reporting System. This final rule follows the publication of the July 14, 2011, proposed rule. In this final rule, HUD is adopting the proposed rule without change. HUD did not receive any public comments on the proposed rule.

**DATES:** Effective Date: **[Insert date 30 days after date of publication in the FEDERAL REGISTER].**

**FOR FURTHER INFORMATION CONTACT:** Karin Hill, Director, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 9278, Washington, DC 20410-8000; telephone number 202-708-2121 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background—The Proposed Rule**

On July 14, 2011, HUD published a proposed rule in the Federal Register (76 FR 41441) designed to make FHA's Appraiser Roster regulations regarding eligibility requirements of appraisers to qualify for placement and retention on the Appraiser Roster consistent with both the mandate of the Housing and Economic Recovery Act of 2008 (Public Law 110-289, approved July 30, 2008) (HERA) that all FHA-approved appraisers be state-certified and HUD's current policy regarding state-certification of appraisers as set forth in Mortgagee Letter (ML) 2008-39, published December 17, 2008.

Under HUD's current regulation in 24 CFR 200.202(b), an applicant who wishes to be included on the FHA Appraiser Roster must, among other things, be a state-licensed or state-certified appraiser. Section 1404 of the HERA amended section 202 of the National Housing Act (12 U.S.C. 1708) to mandate that all appraisers chosen or approved to conduct appraisals of properties that will be security for FHA-insured mortgages must be "certified": (1) by the state in which the property to be appraised is located, *or* by a nationally recognized professional appraisal organization; *and* (2) have demonstrated verifiable education in the appraisal requirements established by FHA. Under amended section 202(g) of the National Housing Act,

licensed appraisers are no longer authorized to conduct appraisals of properties securing an FHA-insured mortgage.

In order to comply with HERA's requirements governing who qualifies as an FHA-approved appraiser, and in order to implement this change in appraiser eligibility requirements in a manner that was not disruptive to the FHA mortgage lending process, ML 2008-39, issued by FHA on December 17, 2008, provided a deadline of October 1, 2009, for all FHA appraisers on the Appraisal Roster to become state-certified and indicated that FHA had ceased to accept applications by state-licensed appraisers on October 1, 2008, in order to comply with HERA.<sup>1</sup>

In addition, HERA provides that appraisers may either be state-certified or certified by a "nationally recognized professional appraisal organization" in order to appear on the Roster. However, in the proposed rule, HUD stated that in order to prevent disruption and to ensure efficient processing of mortgage insurance, HUD will accept only state certification and not the certification of a "nationally recognized professional appraisal organization." HUD determined that state certification sufficiently accomplishes the statutory purpose of ensuring higher quality appraisals.

HUD took the opportunity in the proposed rule to propose the elimination references to the Credit Alert Interactive Voice Response System (CAIVRS). On July 11, 2008, HUD issued ML 2008-18, stating that HUD was discontinuing telephone access to CAIVRS because the hardware supporting the telephone access was obsolete and could no longer be repaired or maintained. Access to CAIVRS is now available solely through the Internet, and CAIVRS is

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<sup>1</sup> Copies of the mortgagee letters referenced in this final rule may be downloaded from <http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/>.

now known as the Credit Alert Verification Reporting System, although the acronym remains the same.

## **II. This Final Rule**

This final rule follows publication of the July 14, 2011, proposed rule. The proposed rule provided for a 60-day public comment period. The public comment period for the proposed rule closed on September 12, 2011, and HUD did not receive any public comments. Accordingly, HUD is adopting the proposed rule without change.

In order to make the Appraiser Roster regulations consistent with current statute, this final rule removes all references to state licensing and state-licensed appraisers from the regulations in § 200.202 and § 200.204. This final rule also eliminates the reference to the Credit Alert Interactive Voice Response System in § 200.202. Because the Credit Alert Interactive Voice Response System no longer exists, the phrase has been replaced with “Credit Alert Verification Reporting System,” the new appraiser alert system put in place by ML 2008-18. Interested readers are referred to the preamble of the July 14, 2011, proposed rule, found at 76 FR 41441, for additional background information.

## **III. Findings and Certifications**

### **Paperwork Reduction Act**

The information collection requirements for this rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0538. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

### **Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

This final rule would not add any new regulatory burdens on FHA-approved appraisers or applicants for FHA approval. HERA requires that an appraiser be state-certified to be approved by FHA to be on the Appraiser Roster. HUD ceased accepting applications from state-licensed appraisers on October 1, 2008, and all appraisers already on the Appraiser Roster must have become state-certified by October 1, 2009, to remain on the Appraiser Roster. This final rule will not create new costs for small entities of appraisers or of lenders, because the rule does not impose any new requirements on appraisers. In addition, FHA's Appraiser Roster pertains solely to individuals, not to entities. Individual appraisers must apply to be on the FHA Appraiser Roster. Therefore, the undersigned certifies that this rule will not have a significant impact on a substantial number of small entities.

#### Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule will not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

### Environmental Impact

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

### Catalogue of Federal Domestic Assistance

The Catalogue of Federal Domestic Assistance Number for the principal FHA single-family mortgage insurance program is 14.117.

### **List of Subjects in 24 CFR Part 200**

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Lead poisoning, Loan programs-housing and community development, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, for the reasons stated in the preamble, 24 CFR part 200 is amended to read as follows:

## **PART 200 – INTRODUCTION TO FHA PROGRAMS**

1. The authority citation for part 200 continues to read as follows:

**Authority:** 12 U.S.C. 1702-1715-z-21; 42 U.S.C. 3535(d).

2. In § 200.202, revise paragraphs (b)(1) and (b)(2)(iii) as follows:

### **§ 200.202 How do I apply for placement on the Appraiser Roster?**

\* \* \* \*

(b) \* \* \*

(1) You must be a state-certified appraiser with credentials that complied with the applicable certification criteria established by the Appraiser Qualification Board (AQB) of the Appraisal Foundation and in effect at the time the certification was awarded by the issuing jurisdiction; and

(2) \* \* \*

(iii) HUD's Credit Alert Verification Reporting System.

3. In § 200.204, revise paragraphs (a)(1)(ii), (c)(1) and (2) as follows:

### **§ 200.204 What actions may HUD take against unsatisfactory appraisers on the Appraiser Roster?**

\* \* \* \*

(a) \* \* \*

(1) \* \* \*

(ii) Losing standing as a state-certified appraiser due to disciplinary action in any state in which the appraiser is certified;

\* \* \* \* \*

(c) \* \* \*

(1) Appraisers subject to state disciplinary action. An appraiser whose state certification in any state has been revoked, suspended, or surrendered as a result of a state disciplinary action is automatically suspended from the Appraiser Roster and prohibited from conducting FHA appraisals in any state until HUD receives evidence demonstrating that the state-imposed sanction has been lifted.

(2) Expirations not due to state disciplinary action. An appraiser whose certification in a state has expired is automatically suspended from the Appraiser Roster in that state and may not conduct FHA appraisals in that state until HUD receives evidence that demonstrates renewal, but may continue to perform FHA appraisals in other states in which the appraiser is certified.

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Date: November 16, 2011

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Carol J. Galante  
Acting Assistant Secretary for Housing –  
Federal Housing Commissioner

**[FR-5458-F-02]**

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